

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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ADRIAN ALEXANDER STARKS,

Petitioner,

v.

MICHAEL MEISNER, Warden,

Respondent.

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ORDER

14-cv-844-jdp

In an October 24, 2017 order, I stayed proceedings in this habeas case so that petitioner Adrian Alexander Starks could present claims based on new evidence in state court. Dkt. 54. I appointed counsel and ordered Starks to present his claims in state court within 90 days. Starks, through counsel, has filed two unopposed motions: a motion to extend the deadline for filing in state court by 60 days, Dkt. 56, and a motion for an order directing the Dane County medical examiner to release certain evidence to Starks, Dkt. 57. I will grant the first motion and extend the deadline for Starks to present his claims in state court to March 23, 2018.

And I will grant the second motion. Starks asks the court to order the Dane County medical examiner to provide him with tissue slides from the autopsy of Michael Ace and complete copies of the autopsy report, coroner's report, and toxicology report from the same autopsy. "A habeas petitioner, unlike the usual civil litigant in federal court, is not entitled to discovery as a matter of course." *Bracy v. Gramley*, 520 U.S. 899, 904 (1997). Rule 6(a) of the Rules Governing Section 2254 Cases provides that the court "may, for good cause, authorize a party to conduct discovery under the Federal Rules of Civil Procedure and may limit the extent of discovery." Discovery is not appropriate in every habeas case, but here, it appears that everyone is on board with Starks's request: respondent does not object and the medical

examiner's deputy coroner would agree to release the items to Starks as long as the procedural formality of a court order is fulfilled. *Id.* at 2. And the items Starks seeks go to the heart of his unexhausted claims. So I will grant direct the Dane County medical examiner to release the requested evidence.

## ORDER

IT IS ORDERED that:

1. Petitioner Adrian Alexander Starks's motion to extend the deadline for filing in state court, Dkt. 56, is GRANTED. Petitioner must present his claims in state court by March 23, 2018.
2. Petitioner's motion for an order directing the Dane County medical examiner to release certain evidence, Dkt. 57, is GRANTED.
3. The Dane County Medical Examiner's Office is directed to provide Federal Defender Services of Wisconsin, Inc., 22 East Mifflin Street, Suite 1000, Madison, Wisconsin 53703, with slides cut from the tissue blocks collected at the autopsy of Michael Ace, Dane County Medical Examiner Case #050707 and UW Autopsy #W05-227-F and complete copies of the autopsy report, coroner's report, and toxicology report related to the same autopsy.

Entered January 22, 2018.

BY THE COURT:

/s/

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JAMES D. PETERSON  
District Judge